

REMARKS

Claims 5 to 9 and 14 to 21 are pending in the present application. Claims 1 to 4 and 10 to 13 have been withdrawn and canceled. Claims 5, 6, 8, 9, 14, 15, 17 and 18 stand rejected under 35 U.S.C. § 103 as being unpatentable over U.S. Pat. No. 6,144,944 to Kurtzman II et al. (hereinafter "Kurtzman") in view of webpages from Broadcast.com (hereinafter the "Broadcast.com reference").¹ Claims 19 to 21 stand objected to as depending from canceled claim 2. Claims 7 and 16 have been allowed. Claims 5, 7, 14, 16 and 19 have been amended. No new matter was added.

The outstanding rejections are respectfully traversed by the following remarks. Allowance of the present application is requested.

The objections should be withdrawn.

Claim 19 has been amended to depend from pending claim 5 and thus no longer depends from canceled claim 2. Claims 20 and 21 depend from claim 19 and thus also no longer depend from canceled claim 2. The objections should be withdrawn.

The rejections under 35 U.S.C. § 103 should be withdrawn.

In order to reject a claim for obviousness under 35 U.S.C. § 103, the prior art must teach or suggest each and every element of the claim and must also suggest combining the elements in the manner contemplated in the claim. *See, e.g., Northern Telecom, Inc. v. Datapoint Corp.*, 908 F.2d 931, 934 (Fed. Cir. 1990), *cert. denied* 111 S. Ct. 296 (1990); *In re Bond*, 910 F.2d 831, 834 (Fed. Cir. 1990).

Applicant respectfully submits that these criteria are not met here.

Independent claims 5 and 14 are allowable.

Claim 5 of the present application recites:

A method for providing user information related to a user's
selection of audio data, the method comprising the steps of:
receiving a user's selection of audio data and an indicium

¹ Applicant notes that the heading of paragraph 5 of the Office Action lists claims 7 and 16 as rejected and does not list claims 8 and 17 as rejected, but in view of the explicit allowance of claims 7 and 16 in paragraph 3 and the explicit rejection of claims 8 and 17 in the more detailed paragraphs following paragraph 5, Applicant assumes that the claim listing in paragraph 5 was a typographical error.

identifying the user;
analyzing the user's present selection of audio data and previous selections of audio data, and identifying at least one user interest category based on the user's present and previous audio data selections;
selecting at least one user information item from the at least one identified user interest category;
associating or combining the at least one user information item with the user's audio data selection; and
delivering the associated or combined at least one user information item and the user's audio data selection to the user over an electronic network.

Kurtzman describes a system for providing selected advertisements in response to a requests from a web page server (Col. 2:25-27). The advertisements in Kurtzman are selected by one or more "affinity engines" which determine the degree of relevance that advertisements have for the information in the request from the webpage server including demographic information, page sponsor information and keyword information (Col. 2:30-37).

Claim 5 recites a method where an information item related to the user's selection of audio data is provided to a user based on analyzing the user's present selection and previous selections to identify at least one user interest category, selecting an information item from at least one of the identified categories and delivering that information item with the user's audio data selection to the user. Thus, claim 5 is allowable over Kurtzman because Kurtzman describes delivering ads based on only information in the request from the webpage server, not based on the user's present selection and previous selections.

Furthermore, in contrast to the approach of Kurtzman, claim 5 also recites a method where a response to a selection is prepared based on analyzing the selection and identifying a user interest category based on the selection, and then delivering an information item from the identified category. In contrast, Kurtzman describes delivering ads based on information in the request from the webpage server, but does not describe analyzing a selection and identifying a user interest category based on the selection, and then preparing a response including an information item from the identified category. Kurtzman describes relating the

request from the webpage server directly to the advertising, while the invention of claim 5 describes identifying a category based on a selection, and then providing a response which includes an information item from the category. In other words, Kurtzman describes going from request directly to advertisement while the invention of claim 5 describes going first from selection to category and then from category to the information item to be included in the response.

Applicant respectfully disagrees with what it understands to be the Examiner's argument that Kurtzman's description of providing "advertisements . . . based on the content of the pages (category- URL pages) provided to the user" (see paragraph 19) discloses the category-related limitations of claim 5. In Kurtzman, "URL pages" is not a "category" as that term is used in claim 5 because every request in Kurtzman is for a webpage (i.e., a URL page). Furthermore, the term used in the claim is not "category" but rather is "user interest category." Based on the plain meaning of the claim language, "URL pages" are not a "user interest category" because the "category" of "URL pages" describes only the *format* of the data, and does not indicate anything about the user's *interests*. Thus Kurtzman does not describe "identifying at least one *user interest category* based on the user's present and previous audio data selections." Even accepting the Examiner's argument that Kurtzman describes providing advertisements to the user based on the content of the webpages provided to the user, Kurtzman does not describe the limitations of claim 5 that use category associations and identifications to prepare a response to user requests. Even assuming that the end result of Kurtzman were the same as the end result of an embodiment of claim 5, Kurtzman cannot render claim 5 obvious because it does not follow the same steps to reach that result.

The Broadcast.com reference does not cure the deficiencies of Kurtzman and the Examiner does not assert that it does. Thus, claim 5 is allowable over the combination of Kurtzman and the Broadcast.com reference.

Claim 14 of the present application recites:

A system for providing user information related to a user's selection of audio data, the system comprising:
an audio data server that receives a user's selection of audio data and an indicium identifying the user;
a user information server that analyzes the user's present

selection of audio data and previous selections of audio data, that identifies at least one user interest category based on the user's present and previous audio data selections that selects at least one user information item from the at least one identified user interest category, and that associates or combines the at least one user information item with the user's audio data selection; and
an audio data delivery system that delivers the associated or combined at least one user information item and the user's audio data selection to the user over an electronic network.

Claim 14 recites a system where an information item related to the user's selection of audio data is provided to a user based on analyzing the user's present selection and previous selections to identify at least one user interest category, selecting an information item from at least one of the identified categories and delivering that information item with the user's audio data selection to the user. Thus, claim 14 is allowable over Kurtzman because Kurtzman describes delivering ads based on only information in the request from the webpage server, not based on the user's present selection and previous selections.

Furthermore, in contrast to the approach of Kurtzman, claim 14 also recites a system where a response to a selection is prepared based on analyzing the selection and identifying a user interest category based the selection, and then delivering an information item from the identified category. In contrast, Kurtzman describes delivering ads based on information in the request from the webpage server, but does not describe analyzing a request and assigning it to a user interest category, and then preparing a response including an information item which had been associated with the assigned category. Kurtzman describes relating the request from the webpage server directly to the advertising, while the invention of claim 14 describes identifying a category based on a selection, and then providing a response which includes an information item from the category. In other words, Kurtzman describes going from request directly to advertisement while the invention of claim 14 describes going first from selection to category and then from category to the information item to be included in the response.

Applicant respectfully disagrees with what it understands to be the Examiner's argument that Kurtzman's description of providing "advertisements . . . based on the content

of the pages (category- URL pages) provided to the user” (see paragraph 19) discloses the category-related limitations of claim 14. In Kurtzman, “URL pages” is not a “category” as that term is used in claim 14 because every request in Kurtzman is for a webpage (i.e., a URL page). Furthermore, the term used in the claim is not “category” but rather is “user interest category.” Based on the plain meaning of the claim language, “URL pages” are not a “user interest category” because the “category” of “URL pages” describes the *format* of the data, and does not indicate anything about the user’s *interests*. Thus Kurtzman does not describe “identifying at least one user interest category based on the user’s present and previous audio data selections.” Even accepting the Examiner’s argument that Kurtzman describes providing advertisements to the user based on the content of the webpages provided to the user, Kurtzman does not describe the limitations of claim 14 that use category associations and identifications to prepare a response to user requests. Even assuming that the end result of Kurtzman were the same as the end result of an embodiment of claim 14, Kurtzman cannot render claim 14 obvious because it does not use the same system to reach that result.

The Broadcast.com reference does not cure the deficiencies of Kurtzman and the Examiner does not assert that it does. Thus, claim 14 is allowable over the combination of Kurtzman and the Broadcast.com reference.

The remaining claims are allowable for at least the reasons the independent claims are allowable.

Claims 6, 8, 9, 15, 17 and 18 are dependent on claims 5 or 14, thus they are allowable for at least the reasons that claims 5 and 14 are allowable.

Conclusion

Applicants respectfully submit that all pending claims are in condition for allowance. Prompt consideration and allowance of the present application are therefore earnestly solicited.

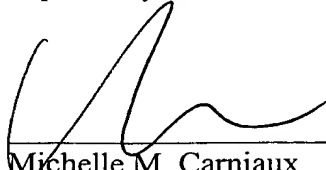
The Office is hereby authorized to charge any additional fees or credit any overpayments under 37 C.F.R. §§ 1.16 or 1.17 to Deposit Account No. 11-0600.

The Examiner is invited to contact the undersigned at (212) 425-7200 to discuss the application.

Respectfully submitted,

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